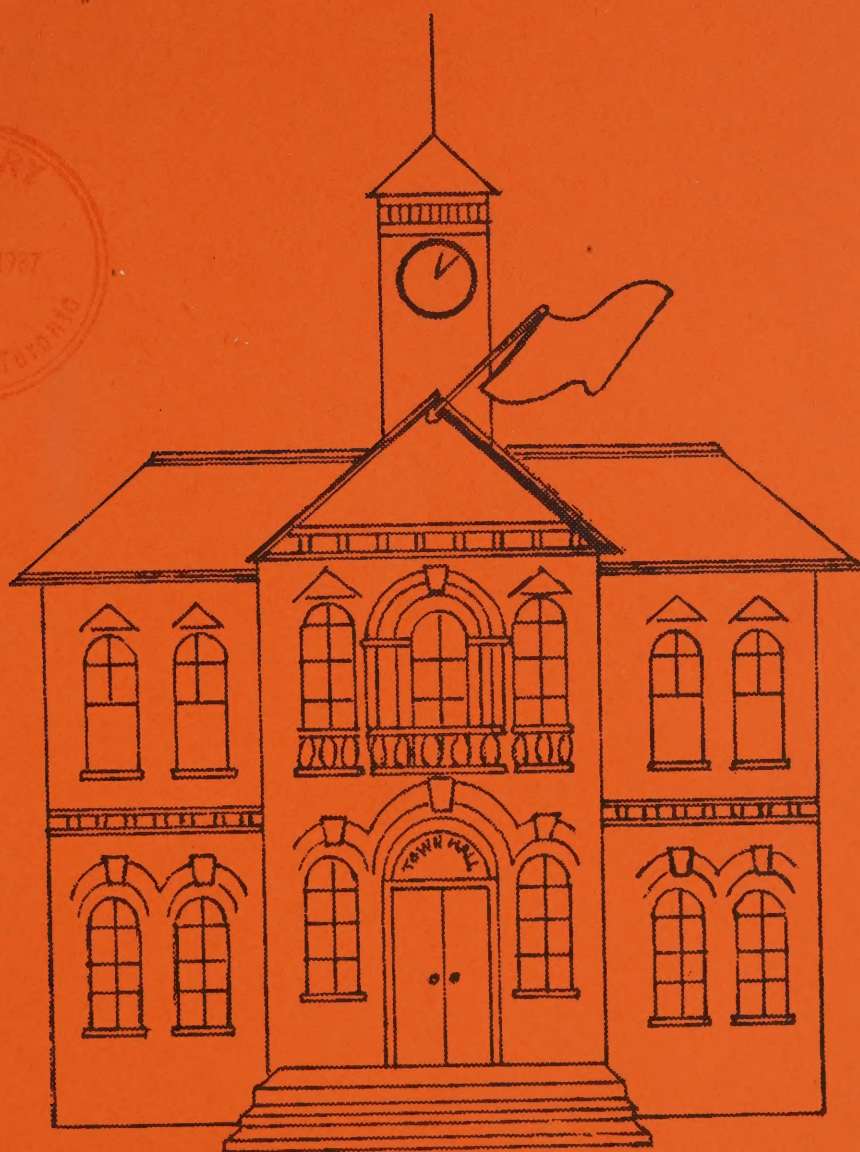


October 1986

BULLETIN 56

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By-Law Indexing



Ontario

Ministry of
Municipal Affairs

Bernard Grandmaitre
Minister

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Deputy Minister (Acting)

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By-Law Indexing

The purpose of this manual is to provide the information necessary to the development of this manual. The following information is based on the results of a by-law indexing project conducted by the Ministry of Municipal Affairs in 1986.



Ontario

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Municipal Affairs

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Deputy Minister (Acting)

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The Ministry of Municipal Affairs wishes to acknowledge the assistance of the City of Cambridge in the development of this bulletin. The information contained herein is based on the results of a by-law consolidation project conducted by the City under the Ministry's Municipal Action '85 program.

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INTRODUCTION

Municipalities in Ontario have been passing by-laws for over a century, on matters ranging from the hauling of dead animals to the implementation of complex zoning regulations. Today, a municipality's by-laws may number in the thousands, with more being added each month.

Because by-laws have far-reaching impacts on the interests, rights and obligations of a municipality and its residents, some means of providing quick and easy access to up-to-date by-laws is essential. Unfortunately, as the sheer number of by-laws expands, keeping by-laws up to date and maintaining accessibility to those by-laws become more difficult, and problems can result.

- 1) Staff time spent researching the by-laws pertaining to particular issues may rise to unacceptably high levels.
- 2) New by-laws may unintentionally overlap with old by-laws that were overlooked during a by-law search.
- 3) Council may make decisions without being aware of all of the pertinent by-laws, because one or more by-laws were misplaced or forgotten.

To ensure that these problems do not occur, a municipality can develop a comprehensive by-law index. An index is essentially a catalogue of all by-laws currently in force in the municipality, organized to allow for rapid access to the municipality's by-laws and to eliminate uncertainty concerning their reliability.

This bulletin describes how to establish a municipal by-law index. More precisely, the bulletin examines the following seven areas:

- 1) statutory requirements;
- 2) conducting an inventory of existing by-laws;
- 3) setting up the index - choosing subject headings;
- 4) selecting a storage medium - binders, cards and computers;
- 5) repealing and redrafting outmoded by-laws;
- 6) updating the index; and
- 7) filing by-laws.

1. STATUTORY REQUIREMENTS

A comprehensive index of all municipal by-laws is not required in the Province of Ontario. There are, however, two provisions in the Municipal Act concerning the storage or indexing of municipal by-laws currently in force.

- 1) Under subsection 77(1) of the Municipal Act, it is the clerk's duty:

"... to keep in his office or in the place appointed for that purpose the originals of all by-laws and of all minutes of the proceedings of the council."

- 2) Subsection 78(2) of the Municipal Act specifies that:

"The clerk shall keep an index book in which he shall enter the number and date of,

- (a) every subsisting by-law heretofore passed under section 39* of the Planning Act or a predecessor of that section;
- (b) every by-law hereafter passed under section 39* of the Planning Act; and
- (c) every other subsisting by-law, and every other by-law hereafter passed that affects land but does not directly affect the title to land."

* The Municipal Act refers to section 39 of the Planning Act. However, when the Planning Act was revised in 1983, section 39 essentially became section 34. The above reference is thus understood to be a reference to the new section 34.

As a result of these two provisions, every municipality in Ontario should already have the originals of all of its by-laws assembled in one location, and its zoning and other land-related by-laws indexed in some fashion. The fulfillment of these statutory requirements gives a municipality a good start in the development of a by-law index. If these requirements have not been fulfilled, they should be undertaken before the by-law index is developed.

As the scope, format, and even the existence of a by-law index are not prescribed by statute (with the exception of the land-related by-law index noted above), the type and level of detail of the index are left to the discretion of each individual municipality. The remaining sections of this bulletin describe a variety of ways of proceeding with the development of a by-law index. Each municipality should tailor the approaches outlined to fit its particular needs and resources.

2. CONDUCTING A BY-LAW INVENTORY

Just as a municipality needs to control the numbers and types of its equipment through inventories and other systems, it also needs to undertake an inventory of its by-laws before preparing a by-law index. By obtaining information on existing by-laws, each municipality will be able to ensure that the index best suits its particular needs.

While the majority of requests for by-law information will originate from members of council and municipal staff, requests will also come from members of the public. With this in mind, the purpose of the detailed inventory is to identify:

a) what by-laws are in existence

In keeping with the provisions of section 77(1) of the Municipal Act cited earlier, the originals of a municipality's by-laws should be in a central location. It is still necessary, however, to check all pertinent files to ensure that the originals of all by-laws are in fact on file, and to record the number and subject of every by-law currently in force in the municipality.

b) where the by-laws are located

If by-law originals are missing, they must be found. This usually requires a search of appropriate files in the department or departments likely to have needed the by-law for their own purposes. A review of the minutes of council meetings may also be necessary to ensure that all amendments and repeals have been recorded. All by-law originals should ultimately be stored in the clerk's office or under his control.

c) how, when, and by whom the by-laws are used

It is important to know who needs access to the by-laws, and how often that access is required. Without this information, the by-law index is unlikely to be organized in a way that will meet the users' needs. If the demand for a particular by-law by staff or members of the public is widespread, copies should be made available in appropriate locations.

d) what by-laws (if any) are outdated

In some municipalities, by-laws that are outdated but still in force or by-laws that have been replaced but inadvertently not repealed may complicate the indexing process. These by-laws should be identified and noted for further action, as outlined in section 5, "Repealing and Redrafting Outmoded By-laws".

e) where cross-referencing between by-laws is required

In some instances, referring to one by-law may not give the reader the complete picture concerning a particular subject. For example, when seeking information on fencing requirements, it may not be sufficient to look at the fencing by-law alone. One may also have to refer to the zoning by-law and the by-law governing swimming pool placement. In such instances, a good index will cross-reference these by-laws, as shown in Figure 2 (page 9).

Inventory Methods

In large municipalities, preparation of the inventory will likely involve the circulation of a form or questionnaire, asking the users in each department about their requirements for access to by-laws. (A sample inventory form is set out in Figure 1 on the following page)

In smaller municipalities, it should be possible for the person responsible for records management to catalogue all by-laws currently in force and determine the needs of other staff and councillors.

FIGURE 1

SAMPLE BY-LAW INVENTORY FORM

Form Number: 25	By-law Number: 38-81						
Subject Heading: FENCES	Subheading: Residential						
Description of By-law: To regulate the erection and maintenance of fences							
Date Passed: 15/5/81	O.M.B. Approval: None						
Date Effective: 1/6/81	Statutory Approval: None						
Access Required By: Public Works Building Planning							
Previous By-laws Repealed or Amended by This By-law: <table border="1"> <thead> <tr> <th><u>By-law</u></th> <th><u>Clause(s)</u></th> <th><u>Repealed or Amended</u></th> </tr> </thead> <tbody> <tr> <td>12-72</td> <td>all</td> <td>Repealed</td> </tr> </tbody> </table>		<u>By-law</u>	<u>Clause(s)</u>	<u>Repealed or Amended</u>	12-72	all	Repealed
<u>By-law</u>	<u>Clause(s)</u>	<u>Repealed or Amended</u>					
12-72	all	Repealed					
By-laws Overlapping With This By-law and Requiring Cross-Referencing: <table border="1"> <thead> <tr> <th><u>By-law</u></th> <th><u>Clause(s)</u></th> </tr> </thead> <tbody> <tr> <td>15-75 - Zoning (General)</td> <td>2.3.1</td> </tr> <tr> <td>57-84 - Swimming Pools</td> <td>4.1</td> </tr> </tbody> </table>		<u>By-law</u>	<u>Clause(s)</u>	15-75 - Zoning (General)	2.3.1	57-84 - Swimming Pools	4.1
<u>By-law</u>	<u>Clause(s)</u>						
15-75 - Zoning (General)	2.3.1						
57-84 - Swimming Pools	4.1						

SAMPLE BY-LAW INVENTORY FORM - EXPLANATORY NOTES

- 1) Form Number: This number is for inventory purposes only, and will not become part of the index. It enables the person conducting the inventory to keep the forms in order, and to count the number of by-laws in the inventory.
- 2) By-law Number: The number assigned to the by-law by council must be included in the index, as the by-law has been filed according to this number.
- 3) Subject Heading and Subheading: These boxes would usually be filled in after the inventory is completed, when the subject headings have been chosen. They could also be used to solicit suggestions for subject headings from staff, if the form is being used as part of a questionnaire.
- 4) Description: A brief description of the by-law's purpose or title should be recorded.
- 5) Date Passed/Effective: The dates on which the by-law was passed and came into effect should be noted.
- 6) O.M.B./Statutory Approval: Where O.M.B. or other statutory approval is required, the date of approval and any orders, etc. should be indicated.
- 7) Access Required by: Departments requiring regular access to the by-law should be noted, particularly where there is considerable distance separating those departments from the place the by-laws are stored. In such instances, additional copies of the required by-laws, as well as copies of the by-law index, should be made available in those departments.
- 8) Amended/Repealed By-laws: By-laws amended or repealed by the by-law being inventoried should be noted. Affected by-laws should then be checked to ensure that the amendments, etc. have been made.
- 9) Overlapping By-laws: Such by-laws should be noted for cross referencing.

3. CREATING THE INDEX

An index is an ordered list of names, key words, or subjects that co-ordinates groups of items to aid in information retrieval. Just as an alphabetical index in the back of a book can reduce the amount of time it takes to locate a topic in the book's sequentially numbered pages, a subject index can result in significant time savings when trying to locate a particular by-law which is numbered and filed sequentially.

Choosing Subject Headings

The establishment of subject headings is perhaps the most difficult and the most important phase of by-law indexing. Poorly defined subject areas or vague headings will defeat the purpose of a subject index. The use of too many or too few subject headings can also unnecessarily increase the time required to locate the desired by-law.

In general, when selecting subject headings you should:

- choose words that are familiar to the users; the identification of appropriate subject headings could be part of the inventory questionnaire
- choose words that are clear in their meaning
- be careful to limit the headings to a manageable number; having to search through hundreds of headings will only frustrate the user
- watch for headings that cover a very large number of by-laws; too many by-laws grouped under one heading increases the amount of time required to find a by-law

When a heading has too many by-laws listed beneath it, a solution may be to break the heading down into a series of subheadings. Alternatively, the by-laws under the heading could be listed alphabetically (e.g. by street name) or by by-law number or registered plan number to simplify by-law location.

Drainage By-laws

Because of their number, drainage by-laws can present a special problem. To make finding a drainage by-law easier, create several drainage subheadings (e.g. construction, levy, debenture), file the by-laws under the appropriate subheading by lot number, then cross-reference each by-law with any other by-laws passed for the same drainage project.

Organizing Subject Headings

Once selected, subject headings can be organized in one of two ways. Where the number of subject headings is relatively small, the headings can simply be arranged in alphabetical order. If a large number of headings are used, or if they are quite detailed, it may be preferable to group the headings by the "functional classification of expenditures" set out by the Ministry of Municipal Affairs in the Municipal Financial Reporting Handbook.

Two sample lists of subject headings and subheadings are shown in Appendix A. List I is a straight alphabetical list. List II organizes subject headings by the functional classification of expenditures. These lists are intended only as a guide. The best way to select your own municipality's subject headings is to draw up a list based on past requests for by-laws. Once this list is established, start to index the by-laws, adding and deleting headings and regrouping by-laws as circumstances dictate.

Index Format

Once the list of subject headings has been finalized, the format of each entry in the by-law index must be established. One possible format is illustrated in Figure 2 on the following page. The format each municipality chooses will depend on its specific information requirements.

Each by-law entry in the index should include:

- a) an index reference code (e.g. the fence by-law in Figure 2 is listed as F-1, an additional fence by-law would be F-2, etc.);
- b) a brief title or description of the by-law;
- c) the by-law number; and
- d) notations concerning amendments to the by-law (if these amendments have not been consolidated into the by-law itself), as well as by-laws repealed by or repealing the by-law.

In addition, the municipality may also wish to include the following information:

- e) notations concerning O.M.B. or other statutory approvals;
- f) cross-referencing of related by-laws listed under other subject headings; and
- g) a location reference to indicate where the by-law can be found (especially useful when copies of by-laws are filed in several locations).

The amount of information a municipality decides to include with each by-law will be determined to some extent by the method used to store the index. If a decision is made to include a large amount of information with each entry in the index, it may be advisable to also make available a "condensed" index, which simply lists the by-law titles under each subject heading, to be used as a quick reference guide.

A sample index format is shown in Figure 2 below.

FIGURE 2 - Sample Index Format

SUBJECT FENCES

<u>CODE NO.</u>	<u>DESCRIPTION</u>	<u>BY-LAW NO.</u>	<u>AMEND/REPEAL</u>
F-1	To regulate the erection and maintenance of fences	38-81	RG 15-75 AD 111-84

see also - SWIMMING POOLS (SW-5, by-law no.57-84, clause 4.1)

- ZONING (Z-1, by-law no. 15-75, clause 2.3.1)

NOTES - FIGURE 2

Code No. A simple code numbering system uses 1 or 2 letters (the first letter or letters of the subject heading) in combination with numbers (starting at 1 for each heading). In Figure 2, the fence by-law is the first by-law under the subject heading "FENCES", and is given the code number "F-1". If a second fence by-law is passed it will be "F-2", and so on.

Amend/Repeal Notations: Amendments and repeals can be noted in abbreviated form. In Figure 2, by-law 38-81 repealed by-law 15-75, and was itself amended by by-law 111-84. A list of common abbreviations is shown below.

AD Amended by (by-law no.)
AG Amending

RD Repealed by
RG Repealing

4. SELECTING A STORAGE MEDIUM

Before the exact contents of the index can be finalized, the physical method or medium to be used to store the index must be chosen. Because by-laws are constantly being amended, repealed, and replaced, the index must be stored in a way that will accommodate these changes quickly, and with a minimum of work. Otherwise, the index will soon become outdated as amendments wait to be incorporated in the index.

There are three primary methods of storage to choose from. Each has certain advantages and disadvantages.

1) Binder

The by-law index can be consolidated into several pages of a three-ring binder, with copies of the most often referred to by-laws appended in the back of the binder.

Advantages: As the index and the key by-laws are both in the same place, referring from one to the other is relatively easy. New key by-laws can be inserted by adding extra pages to the binder.

Disadvantages: Making changes to the index requires retyping or altering a whole page or more of listings.

2) Cards

The by-laws can be indexed using cards. A by-law number is assigned to each card, and essential information about the by-law, including dates of any amendments, is noted on the card. The cards are then filed by subject. If a by-law is listed under more than one subject heading, duplicates of the card are made so that a copy of the card can be placed under each subject heading.

Advantages: The card system is very flexible. Changes to existing by-laws can easily be noted on the cards, and the passing of new by-laws or the repealing of old by-laws can quickly be accommodated through the addition or removal of cards.

Disadvantages: Cards can easily be misfiled or lost. The sheer number of cards that may be required may discourage use and upkeep of the index. The amount of detailed information that can be contained on any card is limited by the space available.

3) Computer/Word Processor

A computerized index combines aspects of both the binder and card systems. Instead of writing the information about each by-law on a card, it is entered into a computer or word processor for storage. To update the index, one merely calls up the stored index and makes the appropriate entry. The computer or word processor will reorganize the index to reflect the change made. A printout of the stored index file can then be placed in the front of a binder or wherever the by-laws may be stored. A properly equipped and programmed computer should even be able to sort the by-laws by subject and assign them to specified subject headings.

Advantages: Changes can be made very quickly and the updated index can be reproduced in page format without having to retype an entire page or more. A single typed entry can be placed simultaneously under several subject headings, if desired. The computerized sorting of by-laws could save substantial staff time.

Disadvantages: A computerized by-law subject index would only be cost effective if the computer hardware required to implement the system is already in place.

5. REPEALING AND REDRAFTING BY-LAWS

Over the years, it is possible for a municipality to have passed a number of by-laws which are now outdated, but which remain in force in the municipality. (A by-law regulating the tethering of horses in an urban area would be one example of such a by-law.) In those municipalities that have undergone the regionalization process or some form of amalgamation, there might also be by-laws that predate the reorganization and which have been effectively replaced by by-laws passed for the reorganized municipal structure, but which still remain in force. The existence of these by-laws is of no benefit to the municipality, and serves only to clutter up filing space and complicate the subject index.

A further problem has become evident in some municipalities, where the lack of a dependable by-law index has lead to existing by-laws being repealed with the clause, "All previous by-laws inconsistent with this by-law are hereby repealed". This technique should not be used, as it is almost certain to be held by the courts to be void for uncertainty. Any by-law that repeals an existing by-law must refer specifically to the by-law or portions of the by-law being repealed.

The organization of by-laws by subject heading offers an excellent opportunity to review existing by-laws to determine whether there are outdated by-laws still in force in the municipality, and where existing by-laws may overlap due to the repeal provision cited above. Once these by-laws are identified, they should be repealed or amended as necessary, to bring them into line with current conditions or other pertinent by-laws.

Should there prove to be a number of outdated by-laws that need to be repealed, it is not necessary to repeal each by-law individually. A single omnibus by-law, which identifies all of the by-laws being repealed, can be used in place of a number of separate repealing by-laws.

For additional information on passing and repealing by-laws, consult the Ministry's Bulletin #7, "Drafting Municipal By-laws".

Repealed By-laws

Once a by-law is repealed, it does not necessarily cease to be of concern to the municipality. For example, there may be building permits which were issued under a subsequently repealed zoning by-law, for which construction has not yet begun. Or council may request a record of recent changes in by-laws governing a certain type of activity. For these reasons, the municipality may wish to index repealed by-laws separate from, but in the same manner as current by-laws, for easy reference.

The originals of all spent or repealed by-laws must be retained under the control of the clerk unless, as provided for by subsection 77(4) of the Municipal Act, the provincial Archivist requests that the by-law originals be kept by the Archivist instead of the clerk. In such an instance the clerk would retain a copy of all documents submitted.

6. UPDATING THE INDEX

Once the index has been completed, reviewed, and distributed, it will lose its usefulness very quickly if it is not kept up to date. To be of value, the index must maintain a high reputation for accuracy. To achieve this, the index should be updated as each by-law is passed, or at least three or four times a year, depending on how active council has been in passing and amending by-laws. In addition, the subject heading under which a new by-law will be found should be indicated in any report accompanying the by-law's passage.

If copies of the index are located in more than one place, ensure that someone is made responsible for keeping each copy of the index up to date. If this is not done, changes can easily go unrecorded, and different indexes will soon contain different information.

7. FILING BY-LAWS

Maintaining a by-law index will be of assistance to a municipality only if the by-laws themselves are also properly organized and maintained. Care must be taken to protect the by-law originals from wear and damage. All originals should be filed in separate file folders in numerical sequence in a filing cabinet, or organized into by-law books. Where folders are used, each folder should be properly labelled with the by-law number and description used in the index. In addition to the by-laws, the folders or books should contain any pertinent maps, agreements, tables, and schedules.

All by-law originals should be kept in a secure and fireproof area, preferably in a fireproof vault. If a vault is not available, the by-laws should be stored in a fireproof filing cabinet. The cabinet drawers should be clearly labelled, indicating the range of the by-law numbers and the corresponding years.

A system of control governing the release and return of by-laws should be enforced. Two separate files, an original file for storage purposes and a copy file for working purposes, are advisable.

Where the by-laws are stored on a computer or word processor, access to the by-laws must be restricted in such a way that allows easy retrieval of the documents, but prevents the by-laws from being altered except by those authorized to make approved amendments.

SUMMARY

By-laws represent the collective corporate decisions of successive municipal councils. They are laws, and merit respect and treatment as such. A by-law index can introduce order into the storage, retrieval and maintenance of these laws, an area which has long been dealt with primarily on an ad hoc basis. In the process, the integrity of the by-laws can be enhanced, and costly mistakes avoided.

APPENDIX A - SAMPLE SUBJECT HEADINGS

LIST I - ALPHABETICAL

ADMINISTRATIVE	IMPOST LEVY
ANIMAL CONTROL	LAND
APPOINTMENTS	Acquisition
Boards and Committees	Conveyance
Officers	Exchange
BUILDINGS STANDARDS	LICENSING
CEMETERIES	LITTERING
COMMUNITY RECREATION CENTRES	LORD'S DAY ACT
CONSERVATION AUTHORITIES	MARKET
COUNCIL PROCEDURES	NOISE
COUNCIL REMUNERATION	PARKING
DEBENTURES	PARKS AND RECREATION
DRAINAGE	PLANNING AND DEVELOPMENT
construction	Official Plan Amendments
levy	Plans of Subdivision
EASEMENTS	Zoning
ELECTION	PROPERTY STANDARDS
EMERGENCY MEASURES	PUBLIC HEALTH
EMPLOYEE AGREEMENTS	PUBLIC MORALS
ENCROACHMENTS	PURCHASING
FENCES	QUIT CLAIM DEEDS
FENCE VIEWERS	RECORD RETENTION
FIRE	RESERVE FUNDS
FIRE ARMS	SEPTIC TANKS
FIRE WORKS	SEWERS
GARBAGE	SIGNS
GROUP HOMES	SNOW REMOVAL
HIGHWAYS AND SIDEWALKS	SNOW MOBILES
Closures	SWIMMING POOLS
Permanent	TAXES
Temporary	TRAFFIC
Dedication	TRANSIT
Establishment	TREES
Extensions	WEED CONTROL
Widening	

APPENDIX A - SAMPLE SUBJECT HEADINGS

LIST II - ALPHABETICAL BY FUNCTIONAL CLASSIFICATION

A. GENERAL GOVERNMENT

1. Appointments

Auditor
Building Inspector
By-law Enforcement Officer
Clerk
Committees and Local Boards
Consultants
Drainage Commissioner
Fence Viewer
Medical Officer of Health
Road Superintendent
Secretary-Treasurer (C of A)
Solicitor
Treasurer
Weed Inspector

2. Council

Conventions
Expenses
Remuneration

3. Financial

Current Borrowing
Debentures
Petty Cash
Reserves and Reserve Funds
Signing Officers

4. General Administration

Destruction of Records
Procedural By-laws

5. Personnel

Bonding
Dismissal
Insurance
Salaries and Benefits

6. Taxation

Budget
Discounts and Prepayment
Interests and Penalties
Levy By-laws
Mill Rates
Tax Registration
Uncollectable Taxes

7. Other

Association Membership
Daylight Saving Time

APPENDIX A - LIST II (cont'd)

B. PROTECTION TO PERSONS AND PROPERTY

1. Conservation Authority

Requisitions

2. Emergency Measures

Evacuation Plan

3. Fire

Equipment

Fire Area Agreements

Fire Routes

Volunteer Fire-fighters

4. Licensing

Hawkers and Peddlers

Taxi

Trailers

Transient Trailers

5. Police

O.P.P. Protection

**6. Protective Inspection
and Control**

Animal Control

Building Inspection

By-law Enforcement

Fence Viewing

C. TRANSPORTATION SERVICES

1. Air Transportation

Airport

2. Equipment

Acquiring

Lease

3. Parking

Acquisition of Land

Offences

Regulating

4. Roadways

Assumption

Closing

Establishing

Opening

Road Allowances

Snow Vehicles On

Traffic Regulations

Widening

5. Street Lighting

Acquiring Light System

Construction

Maintenance

APPENDIX A - LIST II (cont'd)

D. ENVIRONMENTAL SERVICES

1. Garbage Collection/Disposal

Acquisition of Land
Collection
Disposal
Incinerators

2. Pollution Control

Derelict Motor Vehicles
Refuse

3. Sewer System

Connection
Construction
Inspection
Maintenance
Sewer Rates
Special Charges

4. Water System

Construction
Extension
Fluoridation
Inspection
Maintenance

E. HEALTH SERVICES

1. Cemeteries

Acquiring Land
Grant
Maintenance

3. Hospitals

Levy

2. Public Health Services

Health Unit

APPENDIX A - LIST II (cont'd)

F. SOCIAL AND FAMILY SERVICES

1. Assistance to the Aged

Homes For

3. General Assistance

Special Assistance

2. Assistance to Children

Children's Aid Requisition

4. Day Care Centres

Administration
Equipment
Establishment

G. RECREATION AND CULTURE SERVICES

1. Parks and Recreation

Acquisition of Land
Arena
Community Recreation Centre
Grants
Recreation Committee

2. Libraries

Grants

3. Other Cultural

Museums
Theatres

APPENDIX A - LIST II (cont'd)

H. PLANNING AND DEVELOPMENT

1. Planning and Zoning

Official Plan Amendments
Plans of Subdivision
Property and Maintenance Standards
Site Plan Control
Zoning

2. Commercial and Industrial

Business Improvement Areas
Industrial Parks

3. Residential Development

Public Housing
Trailer Parks

4. Agriculture and Reforestation

Weed Control

5. Drainage

Abandonment
Construction
Maintenance

6. Tile Drainage/Shoreline Assistance

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